



Petition Number: 1606-VS-09

Subject Site Address: 1602 East 203rd Street

Petitioner: Kurtis and Marla Ailor

Request: Variance of Standard to allow for the construction of an accessory building in the Established Front Yard (Article 6.1(D)(2)(a)) in the AG-SF1: Agriculture/Single Family Rural District.

Current Zoning: AG-SF1: Agriculture/Single Family Rural District

Current Land Use: Residential

Approximate Acreage: 3.03 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Existing Conditions
6. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

OVERVIEW

Location: The subject property is 3.03 acres +/- in size and is located at 1602 East 203rd Street (see **Exhibit 2**). The property is improved with a single family dwelling constructed in 1965. The property is zoned AG-SF1: Agriculture/Single Family Rural District. Adjacent properties are zoned AG-SF1 and Chatham Hills Planned Unit Development District.

Variance Request: The petitioner is requesting a variance to allow for the construction of a garage in the Established Front Yard¹, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Elevations Exhibit (see **Exhibit 4**).

VARIANCE REQUEST

The proposed detached garage is an Accessory Building². Accessory Buildings are subject to Article 6.1 Accessory Use and Building Standards of the UDO.

¹ Chapter 12 of the UDO defines "Yard, Established Front" as "[a] Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building."

² Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot

Article 6.1(D)(2)(a) Accessory Use and Building Standards; Building Location; Lots Not in Subdivisions; Front Setback states that “Accessory Building(s) shall be located at least seventy-five (75) feet from all Rights-of-way. No Accessory Building may be erected in the Established Front Yard of a Principal Building.”

The request is to allow the detached garage in front of the home, as depicted on the Site Plan. The siting of an Accessory Building on the property is constrained as a result of the unique nature of the property, the location of the driveway turn-around, and the location of the septic field (see Existing Conditions Exhibit at Exhibit 5). The proposed garage would otherwise comply with the applicable standards.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the July 12, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the

with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

Recommended Findings for Approval:

If the Board is inclined to approve the variance, then the Department recommends the following findings:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements would otherwise comply with the applicable standards of the AG-SF1 District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.



- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.